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OFFICE OF PETITIONS

In re Application of :  
Patrick French et al :  
Application No. 10/830,166 : ON PETITION  
Filed: April 21, 2004 :  
Attorney Docket No. 2060-96 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2006, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on February 13, 2006, with the issue fee being due on or before May 15, 2006. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of February 13, 2005 has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The \$130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2855 for appropriate processing of the RCE filed April 24, 2006 and consideration of the IDS submitted concurrently therewith.

*Karen Creasy*

Karen Creasy  
Petitions Examiner  
Office of Petitions